

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLOS GUTIERREZ-NARANJO

Defendant.

CRIM. No. 97-271 (GAG)

**UNITED STATES' RESPONSE TO DEFENDANT'S MOTION TO HAVE PERSONAL  
PROPERTY RETURNED**

TO THE HONORABLE COURT:

COME NOW, plaintiff, the United States of America, by and through its undersigned attorneys, Rosa Emilia Rodríguez-Vélez United States Attorney for the District of Puerto Rico, and Aramis G. Ríos, Assistant United States Attorney, prays and alleges as follows:

**Introduction**

1. Carlos Gutierrez-Naranjo has a long history of drug and violent crime offenses, including arrests for assault, violations to the Puerto Rico Weapons Law, concealment, bribery and criminal contempt.

2. The defendant was an evasive fugitive for over three years until his arrest on July, 19, 2003, in the district of Michigan, and on August 25, 2003 was transferred to the District of Puerto Rico to face charges of drug conspiracy.

3. On November 26, 2003, the defendant pled guilty to Counts One and Four of the Indictment, pursuant to a Plea and Forfeiture Agreement and was sentenced to 216 months imprisonment. As to Count Four, the defendant agreed to relinquish all rights and interests he

may have in property constituting or derived from any proceeds that the defendant obtained directly or indirectly pursuant to U.S. Code Sections 846 and 853

4. On May 29<sup>th</sup>, 2007 the defendant filed a Motion requesting the return of several seized property, two boats, and a trailer. Alleging that he was not notified of the Agency's intention to administrative forfeit said properties.

5. On February 11, 1998, the defendant was notified by certified mail, return receipt requested to the following address: Isleta Marina Tower II, Apt. 3-F Fajardo, Puerto Rico 00648.

See attachments Number 1 and 2.

6. Moreover, notice of the action was published once a week for three successive weeks in the New York Times, New York, NY, and as to June 16, 1999 no claim was filed in a timely manner to contest the forfeiture as required by law. See attachments No. 3 and 4 Declaration of Administrative Forfeiture.

7. The government must stress the fact that the defendant was an evasive fugitive for over three years, with no intention of facing charges. Therefore, his allegation that he was not notified of the government's intention to forfeit the seized properties lacks credibility, he had no intention of facing the criminal charges and by contesting the administrative forfeiture he would have surrender to the jurisdiction of the Court. The defendant was notified, and proper publication in ensued. Thus, as a result of his fugitive status he has lost his opportunity to litigate the forfeiture.

### **Conclusion and Prayer**

The FBI had jurisdiction over the seized property, and provided constitutionally adequate notice of the forfeiture proceedings. Moreover, publication and attempts to send notice to fugitive's last known address satisfies due process. See United States v. Latham, 54 Fed. Appx. 441, 2002 WL 31890914 (6<sup>TH</sup> Cir. 2002); United States v. Sciavo, 897 F. Supp. 644, 648-49 (D. Mass. 1995). Furthermore, following Deninno; court has no jurisdiction to consider motion for return of forfeited property on the merits if claimant received proper notice of the administrative forfeiture. See United States v. Lacey, 1998 WL 982885 (D. Kan. 1998).

For the above reasons, the United States very respectfully requests this Honorable Court that the defendant's petition for return of the property forfeited to the United States be dismissed.

WHEREFORE , the United States respectfully requests that the takes notice of the above and consider defendant's motion as moot.

I HEREBY CERTIFY I HEREBY CERTIFY that I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which automatically sends copies to all appearing parties, and by regular mail to Carlos Gutierrez-Naranjo #31804-039 FCI Fort Dix PO Box 2000 Fort Dix, NJ. 08640 Bldg. 5751E.

RESPECTFULLY SUBMITTED, this 18 day of June 2007..

ROSA EMILIA RODRIGUEZ-VELEZ  
UNITED STATES ATTORNEY

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